

Introduced by Senator Burton

February 17, 2004

An act to amend Section 1067.10 of the Insurance Code, relating to life and health insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as introduced, Burton. Life and health insurance: impairment and insolvency.

Existing law establishes the California Life and Health Insurance Guarantee Association for specified purposes relating to the payment of contractual obligations under certain life and health insurance policies and annuity contracts because of the impairment or insolvency of a member insurer. Existing law requires the Insurance Commissioner, in specified circumstances, to serve a demand upon an impaired insurer to make good the impairment within a reasonable time, and provides that the failure of the insurer to promptly comply with this demand shall not excuse the association from the performance of its powers and duties.

This bill would make a technical, nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1067.10 of the Insurance Code is
- 2 amended to read:
- 3 1067.10. In addition to the duties and powers enumerated
- 4 elsewhere in this article:

1 (a) The commissioner shall do all of the following:

2 (1) Upon request of the board of directors, provide the
3 association with a statement of the premiums in this and any other
4 appropriate states for each member insurer.

5 (2) When an impairment is declared and the amount of the
6 impairment is determined, serve a demand upon the impaired
7 insurer to make good the impairment within a reasonable time;
8 notice to the impaired insurer shall constitute notice to its
9 shareholders, if any; the failure of the insurer to promptly comply
10 with ~~such~~ *the* demand shall not excuse the association from the
11 performance of its powers and duties under this article.

12 (3) In any liquidation or rehabilitation proceeding involving a
13 domestic insurer, be appointed as the liquidator or rehabilitator.

14 (b) The commissioner may suspend or revoke, after notice and
15 hearing, the certificate of authority to transact insurance in this
16 state of any member insurer which fails to pay an assessment when
17 due or fails to comply with the plan of operation. As an alternative
18 the commissioner may levy a forfeiture on any member insurer
19 which fails to pay an assessment when due. The forfeiture shall not
20 exceed 5 percent of the unpaid assessment per month, but no
21 forfeiture shall be less than one hundred dollars (\$100) per month.

22 (c) Any action of the board of directors or the association may
23 be appealed to the commissioner by any member insurer if the
24 appeal is taken within 60 days of the final action being appealed.
25 If a member company is appealing an assessment, the amount
26 assessed shall be paid to the association and available to meet
27 association obligations during the pendency of an appeal. If the
28 appeal on the assessment is upheld, the amount paid in error or
29 excess shall be returned to the member company. Any final action
30 or order of the commissioner shall be subject to judicial review in
31 a court of competent jurisdiction.

32 (d) The liquidator, rehabilitator, or conservator of any impaired
33 insurer or insolvent insurer may notify all interested persons of the
34 effect of this article.